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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/724,016	11/28/2000	Heinz Focke	FOCKE11	7235
7590	08/01/2005		EXAMINER	
Todd Deveau Thomas Kayden Horstemeyer & Risley LLP 100 Galleria Parkway N W Suite 1750 Atlanta, GA 30339-5848			TAWFIK, SAMEH	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 08/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/724,016

Applicant(s)

FOCKE ET AL.

Examiner

Sameh H. Tawfik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 45-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 45-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

In response to arguments filed along with the Appeal Brief on 06/20/2005, examiner withdraws the finality of paper Num. 09132004.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 45-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neri et al. (5,701,725) in view of (WO 9856662A).

Neri discloses a process for producing a pack made of thin cardboard comprising the steps of providing a blank (Fig. 1; via 8) for forming the outer wrapper and folding said blank around the pack (3) in a tubular shape (Fig. 1) such that the side tabs of the outer wrapper overlap one another (via portion 23); then connecting the side tabs to one another in the region of the overlap thereafter folding the transverse and longitudinal folding tabs assigned to the end wall and the base wall such that the transverse folding tabs and the longitudinal folding tabs partially overlap each other then connecting the transverse and longitudinal folding tabs to one another in the region of their overlap (Figs. 1, 3, and 4; abstract, lines 6-9; column 2, lines 8-10; via the compressing device); next moving the packs upward into a pack tower, where the side tabs are permanently sealed in the region of their overlap by full-surface sealing (Figs. 1, 3, and 4; via using laser sources 52, 50, and 61 and/or by moving the packs upward as shown by arrow 46 to stacking position could be consider as a position of permanent sealing position where all

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the sealing lines are permanently sealed); thereafter transporting the pack laterally to a sealing path where the transverse and longitudinal folding tabs are surface sealed (Fig. 1; via the guiding plates on the apparatus support in surface sealing). Neri does not disclose a shrinking station in the region of which the large-surface front walls and rear walls of said packs are subjected to a shrinking process for the outer wrapper by means of surface heat transfer. However, '662 discloses a similar process comprising a heat shrinkable station, used for the purpose wrapping tobacco.

Therefor, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Neri process with a heat shrinkable station, as disclosed by "662, in order to assure the complete and strong wrapping to the articles. Alternatively, the examiner takes an official notice that the mentioned shrinkable station on the tobacco package manufacture is old, well known, and available in the art for the purpose of assuring of strong and complete package around the tobacco.

Regarding claim 46 and 47: Neri discloses that the connecting step involves spot seals and does not initiate shrink wrapping (Figs. 1, 5, and 8).

Regarding claim 48: Neri discloses a process for folding and sealing an outer wrapper on a dimensionally stable pack comprising the following steps providing a wrapping film (via 8) for forming the outer wrapper; wrapping the wrapping film around the pack to form side tabs (23), bottom tabs, and top tabs (Fig. 1); causing the side tabs to overlap one another (Figs. 1 and 3); thermally pre-sealing the side tabs (Figs. 1 and 3; via laser beam 53); causing the bottom tabs to overlap one another and the top tabs to overlap one another (Figs. 1 and 4); thermally pre-sealing the overlapping bottom and side top tabs (Figs. 1 and 4; via laser beam 62); permanently sealing

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the side tabs; and permanently sealing the bottom and top tabs (Figs. 1, 3, and 4; via the compressing means holding to the pack even after the laser bema seals the packs, that could consider as permanently seal) and/or while stacking the pack after the laser permanently seals the longitudinal, top, and bottom folds the staking step by moving the packs and guided on the apparatus could be consider as permanently sealing step to the packs. Neri does not disclose that the wrapping film is shrinkable. However, '662 discloses a similar process comprising a shrinkable wrapper used for the purpose wrapping tobacco.

Therefor, it would have been obvious to one having ordinary skill in the art at the time the invention was substituted Neri's wrapper by having shrinkable wrapper, as taught by "662, in order to assure the complete and strong wrapping to the articles. Alternatively, the examiner takes an official notice that the mentioned shrinkable wrapper on the tobacco package manufacture is old, well known, and available in the art for the purpose of assuring of strong and complete package around the tobacco.

Regarding claim 49: Neri discloses the pre sealing steps and the permanent sealing steps do not initiate shrink wrapping of the film, see for example (Fig. 1).

Regarding claim 50: Neri nor '662 disclose that the step of shrinking the film is done after the side tabs and the bottom and top tabs are permanently sealed by heating. However, it would be obvious to one having ordinary skill in the art by substituting Neri's wrapping film by shrinkable film, as suggested by '662, the shrinking step will be done after permanently sealing the tabs in order to assure the sealing of the taps and because it will be much easier sealing the taps before the shrinking step.

Regarding claim 51: Neri discloses that the pre sealing of the overlapping tabs covers less than half of the area of overlap of the tabs, see for example (Figs. 1, 3, and 4; via the laser beams seal through small line portion of tabs).

Regarding claim 52: Neri discloses that the connecting step involves tacking (Figs. 1, 3, and 4).

Claims 53 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 45 above, and further in view of McDaniel (4,256,526).

Neri nor '662 disclose that the connecting step involves a narrow interrupted sealing strip nor continuous sealing strip. However, McDaniel discloses a similar process for producing pack comprising the step of applying a narrow interrupted sealing strip and continuous sealing strip (Figs. 6 and 8; via 56 and 64).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Neri in view of 662 by applying a narrow interrupted sealing strip and continuous sealing strip to the blank, as taught by McDaniel, in order to comply with "Rule 41" requirements relating to the amount and area of the surface to be coated by adhesive (column 9, lines 48-51).

Alternatively, it is old, and well known the use of adhesive continuous or interrupted sealing strips such as glue in the packing industry. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Neri in view of '662 by using adhesive strips along with the laser sealing means, as suggested by McDaniel, in order to insure strong and efficient seal to the pack.

***Conclusion***

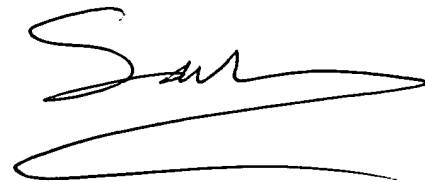
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is (703) 308-2809.

The examiner can normally be reached on Tuesday - Friday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (703) 308-2187. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sameh H. Tawfik  
Patent Examiner  
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A handwritten signature in black ink, appearing to be 'Sameh', with a long horizontal flourish extending to the right.

ST.